

FISCAL NOTE

Bill #: SB0338

Title: Prohibit professional board discrimination among licensees

Primary Sponsor: Balyeat, J

Status: As Introduced

Sponsor signature	Date	David Ewer, Budget Director	Date
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Fiscal Summary

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
Expenditures:		
General Fund	\$0	\$0
Revenue:		
General Fund	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

- | | |
|---|--|
| <input type="checkbox"/> Significant Local Gov. Impact | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached | <input type="checkbox"/> Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

1. The department can identify no readily quantifiable workload increase as a result of SB 338. However, SB 338 does provide two additional legal theories [discrimination and/or restraint of trade or competition] under which individuals or business entities could make legal challenges to board licensing actions, legal interpretation and administrative rules, which could result in increased board and staff workloads.

TECHNICAL NOTES:

1. SB 338 does not expressly address whether different classes of licensees can be held to different standards or allowed to perform different levels or types of services.
2. SB 338 does not provide a definition of “restraining trade or competition”.
3. Section 1 (1)(b)(ii) refers to “persons or businesses that are otherwise qualified to practice the profession or occupation”. The term “otherwise qualified” is not synonymous with the term “licensed”. SB 338 does not identify which entity or person decides that an applicant or licensee is “otherwise qualified”.
4. SB 338 creates a conflict between its provisions and existing statutes that require a person be licensed in order to practice a particular profession or occupation. SB 338 appears to prohibit a professional or occupational licensing board from taking action against the unlicensed practice of a profession or occupation that is within the jurisdiction of the board. If a licensing board cannot take action against someone engaging in unlicensed practice, there is no other means of enforcing the licensing requirements of state law.